

# SENATE MOTION

**MADAM PRESIDENT:**

**I move** that Senate Bill 431 be amended to read as follows:

- 1 Page 2, between lines 36 and 37, begin a new paragraph and insert:
- 2 "SECTION 3. IC 13-11-2-129.9 IS ADDED TO THE INDIANA
- 3 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
- 4 [EFFECTIVE JULY 1, 2007]: **Sec. 129.9. "Modification", for**
- 5 **purposes of IC 13-18-10, refers to an expansion of a confined**
- 6 **feeding operation or concentrated animal feeding operation that**
- 7 **results in either of the following:**
- 8 (1) **An increase in the confined animal capacity.**
- 9 (2) **An increase in the liquid manure storage capacity.**
- 10 SECTION 4. IC 13-11-2-164 IS AMENDED TO READ AS
- 11 FOLLOWS [EFFECTIVE JULY 1, 2007]: Sec. 164. (a) "Political
- 12 subdivision", for purposes of IC 13-18-13, means:
- 13 (1) a political subdivision (as defined in IC 36-1-2);
- 14 (2) a regional water, sewage, or solid waste district organized
- 15 under:
- 16 (A) IC 13-26; or
- 17 (B) IC 13-3-2 (before its repeal July 1, 1996); or
- 18 (3) a local public improvement bond bank organized under
- 19 IC 5-1.4.
- 20 (b) "Political subdivision", for purposes of **IC 13-18-10 and**
- 21 **IC 13-18-21**, means:
- 22 (1) a political subdivision (as defined in IC 36-1-2);
- 23 (2) a regional water, sewage, or solid waste district organized
- 24 under:
- 25 (A) IC 13-26; or
- 26 (B) IC 13-3-2 (before its repeal July 1, 1996);
- 27 (3) a local public improvement bond bank organized under
- 28 IC 5-1.4;
- 29 (4) a qualified entity described in IC 5-1.5-1-8(4) that is a public
- 30 water utility described in IC 8-1-2-125; or
- 31 (5) a conservancy district established for the purpose set forth in

1 IC 14-33-1-1(a)(4).

2 (c) "Political subdivision", for purposes of IC 13-19-5, has the  
3 meaning set forth in IC 36-1-2-13 and includes a redevelopment district  
4 under IC 36-7-14 or IC 36-7-15.1."

5 Page 4, between lines 14 and 15, begin a new paragraph and insert:

6 "SECTION 7. IC 13-18-10-0.4 IS ADDED TO THE INDIANA  
7 CODE AS A NEW SECTION TO READ AS FOLLOWS  
8 [EFFECTIVE JULY 1, 2007]: **Sec. 0.4. (a) The department and the  
9 boards have sole regulatory authority for the protection of the  
10 following with respect to confined feeding operations and CAFOs:**

11 **(1) Human health.**

12 **(2) The environment.**

13 **(b) A political subdivision has regulatory authority for confined  
14 feeding operations and CAFOs only with respect to the following:**

15 **(1) Land use.**

16 **(2) Zoning."**

17 Page 4, line 16, delete "JANUARY 1, 2008]:" and insert "JULY 1,  
18 2007]:".

19 Page 4, line 17, after "construction" insert "**or modification**".

20 Page 5, line 5, delete "to which either of the following" and insert  
21 "**that:**

22 **(i) constitute a material violation of a state or federal  
23 environmental law or regulation; and**

24 **(ii) present a substantial endangerment to human health  
25 or the environment."**

26 Page 5, delete lines 6 through 10.

27 Page 5, line 19, delete "to which either of the following" and insert  
28 "**that:**

29 **(i) constitute a material violation of a state or federal  
30 environmental law or regulation; and**

31 **(ii) present a substantial endangerment to human health  
32 or the environment."**

33 Page 5, delete lines 20 through 24.

34 Page 5, line 37, after "construction" insert "**or modification**".

35 Page 6, line 17, delete "A" and insert "**Except as provided in  
36 subsection (f), a**".

37 Page 6, line 25, after "issued" insert "**, or to modify a confined  
38 feeding operation or a CAFO,**".

39 Page 6, line 29, delete ";" and insert "**or modified;**".

40 Page 6, line 32, after "located" insert "**or modified**".

41 Page 6, line 35, delete ";" and insert "**or modified;**".

42 Page 6, after line 42, begin a new paragraph and insert:"

43 **(c) A person must comply with subsection (d) if:**

44 **(1) the person is not required to file an application as  
45 provided in section 1(b) of this chapter for construction of a  
46 CAFO:**

47 **(A) on land that is undeveloped; or**

- 1 (B) for which:
  - 2 (i) a valid existing approval has not been issued; or
  - 3 (ii) an NPDES permit has not been obtained;
  - 4 or for modification of a CAFO; and
- 5 (2) the person files:
  - 6 (A) an application under 327 IAC 5 for an individual
  - 7 NPDES permit for the construction or modification of a
  - 8 CAFO; or
  - 9 (B) a notice of intent under 327 IAC 15 for general NPDES
  - 10 permit coverage for construction or modification of a
  - 11 CAFO.
- 12 (d) A person referred to in subsection (c) shall make a
- 13 reasonable effort to provide notice:
  - 14 (1) to:
    - 15 (A) each person who owns land that adjoins the land on
    - 16 which the CAFO is to be located or modified; or
    - 17 (B) if a person who owns land that adjoins the land on
    - 18 which the CAFO is to be located or modified does not
    - 19 occupy the land, all occupants of the land; and
  - 20 (2) to the county executive of the county in which the CAFO
  - 21 is to be located or modified;
- 22 not more than ten (10) working days after submitting an
- 23 application or filing a notice of intent. The notice must be sent by
- 24 mail, be in writing, include the date on which the application or
- 25 notice of intent was submitted to or filed with the department, and
- 26 include a brief description of the subject of the application or
- 27 notice of intent. The person shall pay the cost of complying with
- 28 this subsection. The person shall submit an affidavit to the
- 29 department that certifies that the person has complied with this
- 30 subsection.
- 31 (e) The department shall:
  - 32 (1) publish under IC 5-3-1 notice of:
    - 33 (A) an application submitted under:
      - 34 (i) subsection (a); or
      - 35 (ii) subsection (c)(2)(A); or
    - 36 (B) a notice of intent filed under subsection (c)(2)(B); and
  - 37 (2) publish the notice required under subdivision (1):
    - 38 (A) in the newspaper of general circulation with the largest
    - 39 circulation in the county in which the confined feeding
    - 40 operation or CAFO is to be located or modified; and
    - 41 (B) one (1) time not more than ten (10) working days after
    - 42 the date of:
      - 43 (i) submission of the application; or
      - 44 (ii) filing of the notice of intent.
- 45 (f) The fee for a modification of a confined feeding operation or
- 46 CAFO is the fee determined by rule by the department as a
- 47 percentage of the fee established in subsection (a)(5) determined to
- 48 account for the magnitude of the modification as compared to the

1 **magnitude of the original construction."**

2 Page 7, line 1, strike "(c)" and insert "(g)".

3 Page 10, line 39, after "payable" insert "**annually**".

4 Page 10 line 41, delete "indicated number of animals:" and insert  
5 **"following amount for each category under subsection (b) based on**  
6 **the number of each type of confined animal:**

7 **Category A \$100**

8 **Category B \$200**

9 **Category C \$800**

10 **Category D \$1,500**

11 **(b) The categories for purposes of subsection (a) are as follows:**

	<b>Category A</b>	<b>Category B</b>
12		
13	<b>Mature cows 300 to 499</b>	<b>500 to 699</b>
14	<b>Other cattle 300 to 699</b>	<b>700 to 999</b>
15	<b>Swine at least 55 lbs 600 to 999</b>	<b>1,000 to 2,499</b>
16	<b>Swine less than 55 lbs 600 to 4,999</b>	<b>5,000 to 9,999</b>
17	<b>Chickens 30,000 to 74,999</b>	<b>75,000 to 124,999</b>
18	<b>Turkeys 30,000 to 39,999</b>	<b>40,000 to 54,999</b>
19	<b>Ducks 30,000 to 59,999</b>	<b>60,000 to 99,999</b>
20	<b>Sheep 600 to 4,999</b>	<b>5,000 to 9,999</b>
21	<b>Horses not applicable</b>	<b>not applicable</b>
22		
	<b>Category C</b>	<b>Category D</b>
23	<b>Mature cows 700 to 1,999</b>	<b>at least 2,000</b>
24	<b>Other cattle 1,000 to 2,999</b>	<b>at least 3,000</b>
25	<b>Swine at least 55 lbs 2,500 to 7,499</b>	<b>at least 7,500</b>
26	<b>Swine less than 55 lbs 10,000 to 19,999</b>	<b>at least 20,000</b>
27	<b>Chickens 125,000 to 399,999</b>	<b>at least 400,000</b>
28	<b>Turkeys 55,000 to 174,999</b>	<b>at least 175,000</b>
29	<b>Ducks 100,000 to 299,999</b>	<b>at least 300,000</b>
30	<b>Sheep 10,000 to 19,999</b>	<b>at least 20,000</b>
31	<b>Horses 500 to 999</b>	<b>at least 1,000</b>

32 **(c) A confined feeding operation that:**

33 **(1) provides confined feeding for a number of animals less**  
34 **than the minimum number of animals stated in**  
35 **IC 13-11-2-40(1); and**

36 **(2) is a confined feeding operation as a result of meeting the**  
37 **criteria in IC 13-11-2-40(2) or IC 13-11-2-40(3);**

38 **is subject to the annual fee prescribed in subsections (a) and (b) for**  
39 **Category A."**

40 Page 10, delete line 42.

41 Page 11, delete lines 1 through 24.

42 Page 11, line 25, delete "(b)" and insert "(d)".

43 Page 11, line 27, delete "Subsection (a)." and insert "**This section.**".

44 Page 12, between lines 39 and 40, begin a new paragraph and insert:

45 **"SECTION 21. [EFFECTIVE UPON PASSAGE] The department**  
46 **of environmental management shall adopt temporary rules in the**  
47 **manner provided for the adoption of emergency rules under**

1     **IC 4-22-2-37.1 to establish fees under IC 13-18-10-2(f), as added by**  
2     **this act. A temporary rule adopted under this subsection expires on**  
3     **the earliest of the following:**

4         **(1) The date that the department of environmental**  
5         **management adopts another temporary rule under this**  
6         **SECTION that repeals, amends, or supersedes the previously**  
7         **adopted temporary rule.**

8         **(2) The date that the department of environmental**  
9         **management adopts a permanent rule that repeals, amends,**  
10        **or supersedes the previously adopted temporary rule.**

11        **(3) The date specified in the temporary rule.**

12        **(4) December 31, 2008."**

13     Page 12, after line 41, begin a new paragraph and insert:

14     "SECTION 23. **An emergency is declared for this act.**".

15     Renumber all SECTIONS consecutively.

(Reference is to SB 431 as printed February 21, 2007.)

---

Senator GARD